

REMARKS

The present Amendment and Response is believed to be fully responsive to the Final Office Action mailed October 7, 2008 and the Advisory Action mailed January 23, 2009. The present Amendment and Response is being filed conjunction with a Request for Continued Examination (RCE), a Petition for a One Month Extension of Time, and the appropriate fees. Claims 12, 14-16, 18-27 and 32-34 are currently under examination and have been rejected. After entry of the foregoing Amendment, Claims 12, 14-16, 18-27 and 32-34 remain pending in the application. By this amendment, independent Claims 12 and 32 have been amended. Additionally, dependent Claim 34 has been cancelled. Claims 1-11, 13, 17, and 28-31 were previously cancelled without prejudice or disclaimer by prior response. It is respectfully submitted that no new matter has been added by the foregoing amendments. In view of the amendments and remarks, it is respectfully asserted that the rejections are now made moot and that the pending claims are in condition for allowance.

Claim Rejections Under 35 U.S.C. § 112

In the Office Action, Claims 32-34 were rejected under 35 U.S.C. §112, first paragraph, as allegedly not described in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventor(s) had possession of the claimed invention. More specifically, the Office Action contends that six different instructions are recited in independent Claim 32, but the Specification as originally filed does not mention six different instructions. Claims 32-34 were also rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Office Action contends that the preamble of the claim is directed to an apparatus; however, the body of the claim is directed to computer software.

By the present Amendment, independent Claim 32 has been amended to recite “at least one processor operable to access the at least one memory and execute stored instructions” (Underlining supplied). It is respectfully submitted that amended independent Claim 32 satisfies the requirements of 35 U.S.C. § 112. First, it is respectfully asserted that the Specification as

originally filed supports the concept of a processor that executes stored instructions. Second, it is respectfully asserted that sufficient structure is recited in Amended independent Claim 32. Accordingly, it is respectfully asserted that independent Claim 32, as amended, satisfies the requirements of 35 U.S.C. § 112 and is in condition for allowance. Additionally, it is respectfully submitted that dependent Claim 33, which depends from amended independent Claim 32, is in condition for allowance. Prompt allowance of these claims is requested.

Claim Rejections Under 35 U.S.C. § 101

In the Office Action, claims 12, 14-16, and 18-27 were rejected under 35 U.S.C. §101 directed to non-statutory subject matter. More specifically, the Office Action asserts that there is no requirement in the claims that a machine be used. Additionally, the Office Action contends that the claimed subject matter may be performed using only human intelligence and, therefore, the recited steps do not transform the underlying subject matter.

Independent Claim 12 has been amended in order to clarify the scope of the invention claimed in independent Claim 12. Specifically, independent Claim 12 has been amended to recite a “computer implemented method.” Additionally, independent Claim 12 has been amended to recite such elements as the electronic storage of data, the receipt of communications via a network, and processing of data via a processor. It is respectfully submitted that the amendments are fully supported throughout the Specification. Additionally, it is respectfully submitted that independent Claim 12, as amended, sufficiently ties the claimed subject matter to another statutory class of invention. Accordingly, it is respectfully asserted that amended independent Claim 12 satisfies the requirements of 35 U.S.C. § 101 and is in condition for allowance. Additionally, it is respectfully submitted that dependent Claims 14-16 and 18-27, which depends from amended independent Claim 12, are in condition for allowance. Prompt allowance of these claims is requested.

CONCLUSION

It is believed that each matter raised by the Final Office Action has been responded to. Allowance of the claims is respectfully solicited. It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

If there are any issues which can be resolved by teleconference or an Examiner's Amendment, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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